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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/576,499	05/23/2000	Richard E. Williams	2429/4	4593

7590

06/30/2003

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EXAMINER

ARNOLD III, TROY G

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 06/30/2003

22

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/576,499

Applicant(s)

WILLIAMS, RICHARD E.

Examiner

Troy Arnold

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 May 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-7, 10, 11, 13-17, 20-23, 25, 26, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-7, 10, 11, 13-17, 20-23, 25, 26, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                              | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-7 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 recites the limitation "the radiator" in several places. There is insufficient antecedent basis for this limitation in the claim. The preamble does not positively recite a vehicle radiator.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11, 13, 14, 16, 20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Sullivan et al. Regarding claim 11, Sullivan teaches a packaging component for an article, comprising a base member 10 having a central part defining a plane and a first pair of opposed sides, with a portion of the sides foldable out of the plane of the base member and forming arms, connected to the central part (see Sullivan's upper and lower arm portions), a second pair of opposed sides on the base

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member, orthogonal to the first pair of sides, a portion of each foldable out of the plane of the base member, in a direction opposite the first pair, and forming legs to the base member, a member 18,45 engagable with the arms when the arms are folded, whereby an article 17 placed in the central part is stabilized, and the member 18 is engaged with the arms (upper and lower arms). (Regarding the amendments to claim 11, the language of the last paragraph is conditional – “a member *engagable* with said arms *when...*” italics added. The Sullivan packaging component is fully capable of the arrangement claimed, including the legs being folded in opposite directions as the arms, thereby meeting all of the limitations of the claim, as it is written.) Regarding claim 13, Sullivan’s component is made of a rectangular, rigid (inasmuch as that of the Applicant’s is) planar sheet and is cut to form the arms, the legs being defined at least in part by fold lines. See Figs 3 and 4. Regarding claim 14, see Fig 4 of Sullivan. Regarding claim 16, Sullivan teaches side and end leg portions with lapping portions at each corner which fold over and underlie adjacent portions. See Fig 3. Regarding claim 20, see Fig 4, at items 42. Regarding claim 22, see item 18,45.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-7, 10, 23, 25, 26, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al in view of Wood, Cadillac et al, and Official Notice. Sullivan teaches all the limitations of claims 2 and 23 except the at least one stand-off element. (Note that Sullivan's system could be used to package a rectangular vehicular radiator of the geometrical orientation claimed, and appears well suited to do so.) Regarding the stand-off element, Wood teaches stand-off elements 17 in a packaging system, and Cadillac also teaches stand-off elements 11,12 in a packaging system. Official Notice is also taken that stand-off elements, spacers, shims, cushion members and the like, are old, obvious and well known in the packaging arts. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate stand-off elements into the invention of Sullivan for the purpose of insuring that the item packaged 17 did not move toward one of the walls of the outer container 20, due to flexing of the central portion. Sullivan teaches all the limitations of claims 3 and 29 except the tray member being made of Kraft paper. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tray member of Sullivan out of Kraft paper, as Kraft paper is the full functional equivalent of the cardboard specified by Sullivan. Sullivan teaches all the limitations claimed in claims 4, 6 and 10 (Regarding claim 10, see Fig 4). Sullivan teaches all the limitations of claims 5, 7 and 26 except a diagonal fold line forming a gusset, pre-cut locking tabs and pre-cut locking receptacles. Official Notice is taken that such structures are old, obvious and well known in the packaging arts, and would have been obvious modifications to

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Sullivan for the purpose of expediting assembly. Sullivan also teaches all the limitations claimed in claims 25 and 30.

Claims 15, 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al in view of Official Notice. Sullivan teaches all the limitations of claims 15 and 17 except a diagonal fold line forming a gusset, pre-cut locking tabs and pre-cut locking receptacles. Official Notice is taken that such structures are old, obvious and well known in the packaging arts, and would have been obvious modifications to Sullivan for the purpose of expediting assembly. Sullivan teaches all the limitations of claim 21 except the tray member being made of Kraft paper. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tray member of Sullivan out of Kraft paper, as Kraft paper is the full functional equivalent of the cardboard specified by Sullivan.

### ***Response to Arguments***

Applicant's arguments filed 12 May 2003 have been fully considered but they are not persuasive. Regarding the amendments to claim 2, a vehicular radiator is not positively claimed in the claim. As noted above, Sullivan's packaging component could be used to contain a rectangular radiator of the geometric orientation claimed. Regarding the amendments to claim 11, it is submitted that Sullivan still reads upon the claim; the last paragraph of the claim is written in conditional language. The legs, or the opposed sides (right and left sides of Sullivan), *may be folded in opposite directions as the arms*. There is nothing to preclude this folding arrangement in Sullivan. Regarding

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the arguments on page 4, contrary to the remarks, claim 2 does not positively claim a radiator; Applicant merely claims a packaging system *for* a radiator. Packaging is known to be able to contain varieties of items. Regarding the arguments at the bottom of page 4 and top of page 5, as noted above, the claim language merely requires a second pair being *foldable* out of the plane in a direction opposite the first pair. How does Sullivan not meet this limitation? His legs are foldable out of the plane in a direction opposite the first pair. It is submitted that the Applicant is reading limitations into the claim language. Regarding the arguments on page 6, firstly it is noted once again that no radiator is positively claimed in claim 2, and therefore a standoff cannot be mounted to a non-existent item. Secondly, the Wood and Cadillac references are used, in addition to Official Notice to show that standoff elements in general, and other similar items with the same function are old, obvious and well known in the packaging arts. It is not seen how Sullivan teaches away from spacers or standoffs specifically, and, therefore it is maintained that using a standoff tube (or block or pad, etc..) attached to the article as in Fig 1, would have been desirable and obvious to one of ordinary skill in the art at the time the invention was made to prevent undesirable flexing of the middle portion, and resulting movement of the held article towards the shown large side wall.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

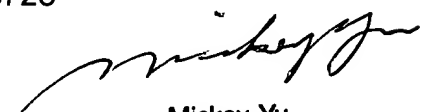
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Arnold whose telephone number is 703-305-0621. The examiner can normally be reached on Tuesday-Thursday, 9:30-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-0302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Troy Arnold  
Examiner  
Art Unit 3728



Mickey Yu  
Supervisory Patent Examiner  
Group 3700



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TGA

June 26, 2003